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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,573

01/17/2007

Peter Hesse

10-378-WO-US

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12/03/2010

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EXAMINER

THEISEN, MARY LYNN F

ART UNIT

PAPER NUMBER

1743

MAIL DATE

DELIVERY MODE

12/03/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,573	Applicant(s) HESSE ET AL.	
	Examiner Mary Lynn F. Theisen	Art Unit 1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-94 is/are pending in the application.
- 4a) Of the above claim(s) 38-71 and 80-94 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 72-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
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| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/19/10 9/3/09 6/12/09 3/6/08 12/19/07 12/11/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group III, claims 72-79 in the reply filed on 9/7/2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 38-71 and 80-94 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/7/2010.

Specification

3. The disclosure is objected to because of the following informalities: Throughout the specification there are references to specific claims. These references are not permitted as during prosecution the content of the claims may be changed or claims may be cancelled. These references should be replaced with information from the original claims. No new matter may be added.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 72 and 74 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoenherr et al (5,910,558).

6. Schoenherr et al disclose forming aromatic polyether ketone particles (column 2, lines 27-66 and I₁₆) by melting and blowing through a nozzle to form droplets (melting and spray drying, column 10, lines 1-6) and cooling (spray drying and cooling, column 11, lines 7-13). The droplets are formed in a hot gas (drying gas, column 10, line 61 through column 11, line 6).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. Claims 76- 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otaigbe et al (6,533,563) in view of Hirao et al (5,171,489).

10. Otaigbe et al disclose a process of forming particles by melting polymeric material, gas atomizing the material to form droplets, and cooling the droplets. See column 1, lines 50-54; column 2, lines 10-24; and column 2, lines 35-46. The particles are separated by size (fraction spectrum). See column 4, lines 33-37. The atomization process is controlled to form particles that are spheres, fibers or whiskers. Hirao et al (abstract) disclose forming fibers by forming a mixture of molten polymer (matrix) and reinforcing fibers and blowing the mixture with hot gas. It would have been obvious to one of ordinary skill in the art to add reinforcing fibers as Hirao et al do to the matrix (polymer) of Otaigbe et al because the reinforcing fibers add strength and the material either with or without the reinforcing fibers are processed in a similar manner (melting and blowing with gas).

11. Claims 72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otaigbe et al in view of Hirao as applied to claims 776-79 above, and further in view of EP 1170318.

12. Using aromatic polyether ketone as the matrix material in the melt processing of Otaigbe et al would have been obvious to one of ordinary skill in the art as this material is melt processible as evidenced by EP 1170318 (abstract).

13. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenherr et al in view of Otaigbe et al.

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14. Both references are described above. It would have been obvious to one of ordinary skill in the art to separate the particles of Schoenherr et al into fraction spectrum because this is typically done in the art of making particles as evidenced by Otaigbe et al.

15. Claims 73, 76, 77 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenherr et al in view of Hirao et al.

16. Both references are described above. It would have been obvious to one of ordinary skill in the art to add reinforcing fibers as Hirao et al do to the matrix (polymer) of Schoenherr et al because the reinforcing fibers add strength and the material either with or without the reinforcing fibers are processed in a similar manner (melting and blowing with gas).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Lynn F. Theisen whose telephone number is 571-272-1210. The examiner can normally be reached on Thursday and Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Del Sole can be reached on 571-272-1130. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mary Lynn F. Theisen/
Primary Examiner
Art Unit 1743
